

BEFORE THE INDIANA CIVIL RIGHTS COMMISSION
311 West Washington Street
Indianapolis, Indiana 46204

STATE OF INDIANA)
) SS
COUNTY OF MARION)

ROBERT E. POWELL,
Complainant,

DOCKET NO. PAse77050257

v.

REDS LOUNGE, AND
JIMMY MARTIN,
Respondent.

**ADOPTION OF HEARING OFFICER'S RECOMMENDED FINDINGS OF FACT AND
CONCLUSIONS OF LAW, AND ORDER**

The Indiana Civil Rights Commission, having reviewed and considered the Recommended Findings of Fact, Conclusions of Law, and Order, submitted in the action by R. Davy Eaglesfield, III, Hearing Officer, and the objections filed thereto by Respondent, adopts the submitted recommendation as the final findings of fact, conclusions of law and order of the Indiana Civil Rights Commission, with the following addition to paragraph 5 of the Recommended Findings of Fact, which should read:

,and when preparing to leave Powell put on
his hat but was told by Martin to remove his hat.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Recommended Findings of Fact, Conclusions of Law, and Order, submitted in this action, as corrected above, be and hereby is adopted as the Final Findings of Fact, Conclusions of Law and Order of the Indiana Civil Rights Commission.

Dated: August 24, 1979.

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Indianapolis, Indiana 46204**

STATE OF INDIANA)
) SS
COUNTY OF MARION)

ROBERT E. POWELL,
 Complainant,

DOCKET NO. PAse77050257

v.

**REDS LOUNGE, AND
JIMMY MARTIN,**
 Respondent.

RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Comes now the Complainant, Robert E. Powell ("Powell"), by counsel, and files his Motion for Order by Default, which Motion is in words and figures as follows:

(H. I.)

And come not the Respondents Reds Lounge ("Reds") and Jimmy Martin ("Martin") in opposition thereto.

And comes now R. Davy Eaglesfield III, Hearing Officer for the Indiana Civil Rights Commission ("ICRC"), having considered the above and being duly advised in the premises, and recommends the entry of the following Findings of Fact, Conclusions of Law and Order, pursuant to IC 4-22-1-12 and Ind. Admin. R. and Reg. §(22-9-1-6)-25(A) (hereinafter cited as ICRC Rules, §(22-9-1-6)-_____].

FINDINGS OF FACT

1. Powell is a male citizen of the State of Indiana.
2. Respondents operate an establishment engaged in operating a business known as Red's Liquors. As a part of such business, Reds operates a lounge known as Reds Lounge ("the Lounge") which, among other things sells alcoholic beverages "by-the-drink". Reds Liquors and Reds Lounge are located in the City of Indianapolis, Indiana, and have been so situated at all times material to this complaint.
3. Respondent's establishment offers its services facilities, and goods to the general public.
4. On May 25, 1977, at approximately 10:-00 pm, Powell entered the Lounge.
5. Upon his entry, Powell voluntarily removed his hat, knowing that the lounge has policy which precludes males from wearing their hats inside the Lounge.
7. Females are not precluded from wearing their hats while inside the Lounge.
8. Respondents adopted and enforced this policy for the reason that it was a way to control the clientele and helped to identify customers.
9. There is no reason why requiring females to remove their hats while inside the Lounge would adversely effect the control of clientele or identification of customers.
10. Respondent hold a license from the Indiana Alcoholic Beverage Commission ("ABC") to serve alcoholic beverages.
11. Powell filed the instant complaint with the ICRC on May 26, 1977.
12. Respondents received proper notice of a pre-hearing conference to be held on May 4, 1979 at 10:00 am.
13. Respondents did not appear at said pre-hearing conference.
14. Any Conclusion of Law which should have been deemed a Finding of Fact is hereby adopted.

ORDER

1. The complaint was timely filed under IC 22-9-1-3(o).
2. Respondents are a “public accommodation” under IC 22-9-1-3(o).
3. ICRC had jurisdiction of the subject matter and the parties.
4. Where a public accommodation adopts and enforces a policy requiring males, but not females, to remove their hats for the reason that it is a way to control the clientele and helped to identify the customers when there is no reason why imposing a similar requirement on females would adversely affect control of clientele or identification of customers, it has committed a “discriminatory practice” under IC 22-9-1-3(1) by denying “...equal opportunities because of ...sex...”(It should be noted that this is not a case where the disparate requirements were adopted and/or enforced because it is traditional etiquette for males, but not females, to remove their hats indoors).
5. Failure to appear at a pre-hearing conference is “...failure to... otherwise defend as provided by these rules...”. ICRC Rules §922-9-1-6)-20. *Lewis v Salk*.

ORDER

Respondents are jointly and severally liable for complainant with each of the following orders:

1. Cease and desist from committing the discriminatory practice and Respondents are hereby ordered to apply and Respondent are hereby ordered to apply and enforce, equally to both males and females, whatever policy they have as regards to the wearing of hats inside their establishment.

Respondents are further notified that the ABC has been notified of this Order and failure to comply with it shall subject them to a hearing before ABC to show cause why their license should not be revoked or suspended.